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13. Landlord and Tenant (§ 37*)—Tenant Favored by Law.—In all cases of uncertainty, the tenant is most favored by law, because the landlord, having the power of providing expressly in his own favor, has neglected to do so, and also on the general principle that every man's grant is to be taken most strongly against himself.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 129.]

14. Frauds, Statute of (§ 58 (1*))—Landlord and Tenant (§ 114 (2*))—Tenancy from Year to Year.—Where a tenant enters under a lease void under the statute of frauds (Code 1904, § 2413) because not under a seal and for a longer term than five years, the tenancy is one from year to year.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 529; 9 Va.-W. Va. Enc. Dig. 119, 128.]

15. Landlord and Tenant (§ 94 (6*))—Lease for Successive Periods of Year—Notice.—If a lease for successive periods of a year, up to eight, gave the lessees an option to terminate by giving notice, notice for a reasonable length of time before the beginning of the succeeding yearly term was necessary.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 188.]

Error to Law and Chancery Court of City of Roanoke.

Attachment for rent by Gorla Bros. against Max Marks and others. To review a judgment for plaintiffs, defendants bring error. Reversed, and cause remanded for new trial in accordance with the opinion.

A. B. Hunt and M. P. Burks, Jr., both of Roanoke, for plaintiffs in error.

Johnston & Izard, of Roanoke, for defendants in error.

COOPER'S ADM'R *v.* COMMONWEALTH et al.

Sept. 20, 1917.

[93 S. E. 680.]

1. Domicile (§ 2*)—Distinguished from "Residence."—"Residence" and "domicile" are not synonymous, "domicile" having the larger significance, and "residence" depending upon the subject-matter and connection in which it is used, and may be either a person's permanent or temporary abode. In construing statutes, the word "residence" depends upon the context and legislative purpose.

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series. Domicile; Residence. For other cases, see 3 Va.-W. Va. Enc. Dig. 116; 4 Va.-W. Va. Enc. Dig. 781.]

2. Taxation (§ 254*)—Property of Nonresidents—Statute—"Residing Therein"—"Residing in His District."—The words "residing"

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

and "residing in his district" as used in Code 1904, §§ 491, 494, as amended by Acts 1915, c. 147, relating to taxes upon intangible property having no other situs for taxation, refer to domicile in the district of the local commissioner of revenue who makes the assessment.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 101.]

3. Domicile (§ 8*)—Change of—Burden of Proof.—Where a person's domicile had been outside the state since childhood and prior to 1905, the burden was upon those alleging change of domicile to establish it.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 115.]

4. Domicile (§ 10*)—Evidence—Exercise of Voting Franchise.—In cases of doubtful domicile, particular significance should be attached to repeated exercise of the right to vote, because such right depends upon citizenship and domicile.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 115.]

5. Taxation (§ 254*)—Domicile—Sufficiency of Evidence.—Deceased's domicile held to be outside the state so as to exempt his intangible property from taxation, although he had actually resided within the state for several years, but had voted at his former residence, was postmaster there, and had continually asserted that he had not changed his domicile, and the failure of local taxation authorities to contest the issue made by him as to his legal domicile during his lifetime could be considered in weighing the testimony.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 101.]

Appeal from Circuit Court, Roanoke County.

Proceeding by the Commonwealth and others against C. L. Hatcher, administrator of Thomas H. Cooper, deceased, to assess taxes against the estate under Code 1904, §§ 567, 571. The administrator asks correction and cancellation of assessment of intangible property. Judgment holding administrator liable for taxes assessed in favor of Commonwealth, pursuant to Acts 1916, c. 491, and the administrator appeals. Reversed and remanded.

Jackson, Henson & Saul, of Salem, and *Jos. M. Sanders*, of Bluefield, W. Va., for appellant.

The Attorney General, *J. D. Logan* and *R. T. Hubbard*, both of Salem, and *Kime & Kime*, of Roanoke, for appellees.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.